THE HON'BLE SRI JUSTICE N.V. RAMANA

W.P. No. 12905 of 2000

O r d e r:

The petitioner joined the service of the respondents-A.P.S.R.T.C. as Conductor on 01.04.197 1and retired from service as Assistant Depot Clerk on 30.06.1999. He states that at the time of joining service, he had given option to become Member of the Family Pension Scheme introduced by the Central Government under the provisions of the Guaranteed Provident Fund and Miscellaneous Provisions Act, 1952, and pursuant thereto, the respondents-A.P.S.R.T.C. even deducted some amounts from his salary. As the respondents-A.P.S.R.T.C. after his retirement from service, refused to pay Family Pension, he filed the present writ petition.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents-A.P.S.R.T.C.

The learned counsel for the petitioner submitted that the petitioner at the time of joining the service of the respondents-A.P.S.R.T.C. has given option to become Member of the Family Pension Scheme introduced by the Central Government under the provisions of the Guaranteed Provident Fund and Miscellaneous Provisions Act, 1952, and pursuant thereto, the respondents-A.P.S.R.T.C. even deducted some amounts from his salary towards his contribution to the Family Pension Scheme. He submits that the respondents-A.P.S.R.T.C. having deducted some amounts from the salary of the petitioner towards contribution to the Family Pension Scheme, cannot refuse to pay him Family Pension, and refusing to pay the Family Pension to the petitioner, is illegal and arbitrary. He thus prayed for appropriate directions.

In response to the notice of the writ petition, the Law Officer of the respondents-A.P.S.R.T.C. filed counter. The learned Standing Counsel for the respondents-A.P.S.R.T.C. reiterating the stand taken in the counter, submitted that the petitioner joined the service on 12.06.1969. The Central Government under the Guaranteed Provident Fund and Miscellaneous Provisions Act, 1952 introduced Family Pension Scheme w.e.f. 01.03.1971. After the introduction of the Family Pension Scheme, all the employees were asked to give their option as to their joining in the Family Pension Scheme, but the petitioner did not give his option to join. He submitted that the Family Pension Scheme is run by the Regional Provident Fund Commissioner, and only the names of those employees, whose names are found in the Register maintained by him, are given Family Pension. Since the petitioner is not a Member of the Family Pension Scheme, he is not entitled to Family Pension, and more so when his name does find place in the Register

maintained by the Regional Provident Fund Commissioner, who is not made a party to the writ petition. He submitted that an amount of Rs. 8,318/- (50% of which being the petitioner's contribution, which was wrongly fully deducted, and 50% being the employer's contribution), was paid to the petitioner vide Cheque No. 0067373 dated 25.09.2002. He thus prayed that the writ petition be dismissed.

Though the petitioner claims that he had given option to join as Member of the Family Pension introduced by the Central Government under the provisions of the Guaranteed Provident Fund and Miscellaneous Provisions Act, 1952, which came into effect from 01.03.1971, the same is disputed by the respondents-A.P.S.R.T.C. *inter alia* contending that the petitioner did not given his option to join the Family Pension Scheme when options for joining the Family Pension Scheme were called for from all the employees. This apart, it is the case of the respondents-A.P.S.R.T.C. that the Family Pension Scheme is operated by the Regional Provident Fund Commissioner and only those employees whose names find place in the Register maintained by the Regional Provident Fund Commissioner, are entitled to grant of Family Pension. Admittedly, the Regional Provident Fund Commissioner, who is the authority competent to sanction Family Pension to the Members of the Family Pension Scheme, is not made a party to the writ petition. When the petitioner is said to be not a member of the Family Pension Scheme, no direction can be given to the respondents-A.P.S.R.T.C. to recommend to the Regional Provident Fund Commissioner to sanction Family Pension to the petitioners.

Admittedly, the respondents-A.P.S.R.T.C. though deducted some amounts from the salary of the petitioner towards Family Pension, they did not remit the same along with their contribution to the Regional Provident Fund Commissioner, obviously because the petitioner is not a Member of the Family Pension Scheme. When the petitioner is not a Member of the Family Pension Scheme, he cannot seek direction to the respondents to pay him Family Pension. However, it is the case of the respondents-A.P.S.R.T.C. that the amounts wrongfully deducted by them from the salary of the petitioner, together with equal amount of the employer's contribution along with interest thereon at 12% per annum, totaling Rs.8,318/-, were paid to the petitioner vide demand draft
No. 0067373 dated 25.09.2002. The learned counsel for the petitioner contended that no such amount was paid by the respondents-A.P.S.R.T.C. to the petitioner.

Since the petitioner is not a Member of the Family Pension Scheme, no direction can be given to the respondents-A.P.S.R.T.C. to pay him Family Pension. However, having regard to the fact that the petitioner has denied payment of the amounts wrongfully deducted from his salary, though it is the case of the respondents-A.P.S.R.T.C. that such amounts were paid, while dismissing the writ petition, I deem it appropriate to direct the respondents-A.P.S.R.T.C. to pay the amounts deducted from the salary of the petitioner, along with employer's contribution and interest thereon, if not already paid, within a period of four weeks from today. However, for the wrongful act of the respondents-A.P.S.R.T.C. the petitioner has approached this Court, and it is appropriate to compensate the petitioner by imposing costs on the respondents-A.P.S.R.T.C., which are quantified

at Rs.2,000/- (Rupees two thousand only).

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N.V. RAMANA, J.

Date: 3rd January 2006.

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